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DD/S 71-4077: Memo dtd 19 Oct 71 to Heads of Exec. Depts. & Establishments fm Mr. Reifel, Chairman/Nat'l Capital Planning Commission, subj: Draft of Modification No. 2 to the Commission Policies & Procedures for Implementing the Goals and Policies of the Nat'l Environmental Policy Act of 1969, and EO 11507 & EO 11514 for the Protection & Enhancement of Environmental Quality in the National Capital Region

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NATIONAL CAPITAL PLANNING COMMISSION

WASHINGTON, D.C. 20576

NCPC File No. 0735

RESOLUTION ADOPTING POLICIES AND PROCEDURES FOR IMPLEMENTING THE GOALS AND POLICIES OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, EXECUTIVE ORDERS 11507 AND 11514 FOR THE PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY IN THE NATIONAL CAPITAL REGION*

WHEREAS, the National Capital Planning Commission is the central planning agency for the Federal and District of Columbia Governments in the National Capital Region and is charged with planning the appropriate and orderly development and redevelopment of the National Capital.

WHEREAS, Section 4(a) of the National Capital Planning Act of 1952, as amended, charges the National Capital Planning Commission with "the duty of preparing and adopting a comprehensive, consistent, and coordinated plan for the National Capital, which plan shall include the Commission's recommendations or proposals for Federal and District developments or projects in the environs," and provides that the content of the Comprehensive Plan for the National Capital shall, among many other things, include "projects affecting the amenities of life, the preservation and conservation of natural scenery and resources, and features of historic and scientific interest and educational value; and all other proper elements of city and regional planning."

WHEREAS, Section 1 of this Act states that "the general objective of this Act is to enable appropriate agencies to plan for the development of the Federal establishment at the seat of government in a manner consistent with the nature and function of the National Capital and with due regard

* Adopted by the Commission on August 6, 1970 and modified on August 5, 1971.

for the rights and prerogatives of the adjoining states and local governments to exercise control appropriate to their functions, and in a manner which will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development."

WHEREAS, the Commission reviews, pursuant to Section 5 of the National Capital Planning Act of 1952, as amended, both master plans and site and building plans for District and Federal developments and projects in the Region.

WHEREAS, the Commission has had a long-standing interest and concern for improving the character and quality of Federal installations in the National Capital Region and of properly coordinating Federal developments and projects with District of Columbia, state and local developments and projects within the Region, and has consistently recommended that the character and quality of existing Federal establishments both in the District of Columbia and in the National Capital Region as a whole be enhanced and improved.

WHEREAS, Section 2 of the National Environmental Policy Act of 1969 (Public Law 91-190) declared "a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental

Quality," and WHEREAS, Section 102(b) requires all agencies of the Federal Government to:

"identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by Title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations."

WHEREAS, Section 1 of Executive Order 11514, "Protection and Enhancement of Environmental Quality" declares that:

"The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort," and

Section 2 of Executive Order 11514 requires, in part, that the heads of Federal agencies shall:

"(a) Monitor, evaluate, and control on a continuing basis their agency's activities so as to protect and enhance the quality of the

environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, state and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage state and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment."

WHEREAS, the Council on Environmental Quality has issued Interim Guidelines for Statements on Major Federal Actions Affecting the Environment Required by Section 102(2)(c) of the National Environmental Policy Act of 1969 which, among other things, provides that:

"(a) Pursuant to Section 2(f) of Executive Order 11514, the heads of Federal agencies have been directed to proceed with measures required by Section 102(2)(c) of the Act. Consequently, each agency will establish no later than June 1, 1970, its own formal procedures for (1) identifying those agency actions requiring environmental statements, (2) obtaining information required in their preparation, (3) designating the officials who are to be responsible for the statements, (4) consulting with and taking account of the comments of appropriate Federal, state and local agencies, and (5) meeting the requirements of Section 2(b) of Executive Order 11514 for providing timely public information on Federal plans and programs with environmental impact. These procedures should be consonant with the guidelines contained herein. Each agency should file seven (7) copies of all such procedures with the Council on Environmental Quality, which will provide advice to agencies in the preparation of their procedures and guidance on the application and interpretation of the Council's guidelines.

(b) Each Federal agency should consult, with the assistance of the Council on Environmental Quality if desired, with other appropriate Federal agencies in the development of the above procedures so as to achieve consistency in dealing with similar activities and to assure effective coordination among agencies in their review of proposed activities."

WHEREAS, Reorganization Plan No. 3 of 1970 established the Environmental Protection Agency which in accordance with Section 309 of the Clean Air Act, as amended, provides that "The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction to which section 102(2)(C) of Public Law 91-190 applies, and (3) proposed regulations published by any department or agency of the Federal Government."

WHEREAS, Executive Order 11507, "Prevention, Control, and Abatement of Air and Water Pollution at Federal Facilities," established the policy that "The Federal Government in the design, operation, and maintenance of its facilities shall provide leadership in the nationwide effort to protect and enhance the quality of our air and water resources,"

HOW, THEN, BE IT RECOMMENDED, THAT

COMMISSION ADOPTS THE FOLLOWING POLICIES AND PROCEDURES:

1. POLICIES

(a) In view of the unique Federal presence at the seat of government, a special effort should be made by the Federal and District of Columbia Governments in the National Capital Region to implement the National Environmental Policy Act of 1969 and Executive Orders 11507 and 11514. Such a special and continuing effort in this region could well serve as a demonstration for the entire Nation. In addition, the Bicentennial celebration in 1976 could focus and highlight such an effort in this Region.

(b) In support of this special effort, the Federal and District of Columbia Governments should encourage and support related state, local and metropolitan or regional efforts in the National Capital Region to implement the objectives and policies of the National Environmental Policy Act of 1969.

(c) The Commission desires to cooperate with, and is prepared to assist, the Council on Environmental Quality and the Environmental Protection Agency in meeting these environmental goals and objectives in the National Capital Region in its capacity as the central planning agency for the Federal and District of Columbia Governments.

(d) The Commission will expand and intensify its current review of the environmental aspects and implications of all proposed District and Federal land acquisition and/or construction plans or programs in the National Capital Region pursuant to the National Environmental Policy Act of 1969 and Executive Orders 11507 and 11514. This continuing

review will include an evaluation of the sponsoring agency's environmental statement on any major action that significantly affects the environment in accordance with 102(2)(c) of the National Environmental Policy Act of 1969.

(e) The Commission will also request that, as part of this special effort, each District of Columbia and Federal agency submitting proposed developments in the National Capital Region for the review of the Commission under the provisions of Section 5 of the National Capital Planning Act of 1952, as amended, submit either an environmental statement in accordance with Section 102(2)(C) of the National Environmental Policy Act or, in lieu thereof, if Section 102(2) does not apply, a written description of the environmental aspects and implications of each proposal and the safeguards planned for the protection and enhancement of environmental quality in the National Capital Region.

(f) Inasmuch as each element of the Comprehensive Plan for the National Capital is directly concerned with the quality of the environment in the National Capital Region, the Commission will continue and intensify its efforts to expand, clarify and refine the objectives, policies and proposals in the Comprehensive Plan relative to the protection and enhancement of the quality of the environment in the National Capital Region.

2. "ACTIONS" INITIATED BY THE COMMISSION IN THE NATIONAL CAPITAL REGION

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190), the Commission is responsible for preparing environmental statements in the following areas:

(a) Elements of the Comprehensive Plan for the National Capital, as required by Section 4(a) of the National Capital Planning Act of 1952.

(b) Urban renewal plans, and urban renewal plan modifications, for urban renewal areas in the District of Columbia pursuant to Sections 6(b) and 12 of the District of Columbia Redevelopment Act of 1945, as amended.

(c) Acquisition of lands in Maryland or Virginia for the George Washington Memorial Parkway, in accordance with Section 1(a) of the Act of May 29, 1930 (the Capper-Cramton Act).

(d) Contributions and advances to the Maryland National Capital Park and Planning Commission, or to appropriate Virginia authorities for the acquisition of land for stream valley parks in Maryland and Virginia pursuant to Sections 1(b) and (c) of the Act of May 29, 1930 (the Capper-Cramton Act).

(e) Acquisition of lands in the District of Columbia for park, parkway, and playground purposes in the National Capital pursuant to Section 4 of the Act of May 29, 1930 (the Capper-Cramton Act).

In conjunction with carrying out these responsibilities, the Commission will:

- (a) Designate the Executive Director as being responsible for:
- (1) obtaining the information required for the preparation of the

environmental state; (2) preparing the draft environmental statements for Commission consideration; (3) circulating the draft environmental statement for review and comment to the Council, affected and interested public agencies and the general public; (4) integrating agency comments where appropriate into the preparation of the final draft statement; and (5) distributing the final environmental statement to the Council, interested and affected public agencies and the general public.

(b) Monitor, evaluate, and control on a continuing basis its activities so as to protect and enhance the quality of the environment in the National Capital Region,

(c) Expand its current activities in consultation with appropriate Federal, state and local agencies on matters affecting the environmental statements,

(d) Expand its current activities as a clearinghouse for information of Federal plans and programs in the National Capital Region by making such environmental statements available to the general public in the National Capital Region for review and comment prior to Commission action thereon,

(e) Consult, in the preparation of environmental statements on proposed actions of the Commission, with those Federal agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved, or which are authorized to develop and enforce environmental standards--in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969. In referring draft environmental statements for review and comment, at least thirty (30) days

shall be allowed after which time it will be presumed, unless the agency requests in writing a specific extension of time, that the agency consulted has no comment to make. Extension may be granted by the Executive Director not to exceed 15 days.

(f) Consult with, and secure advice and comment from, the Environmental Protection Agency on proposed legislation, regulations, new construction projects, and major actions significantly affecting air and water quality, solid waste disposal, pesticides, radiation standards, and noise in the National Capital Region, in accordance with Section 8 of the Revised CEQ Guidelines, dated April 23, 1971, and Section 309 of the Clean Air, as amended. In accordance with Section 8 of the Council on Environmental Quality's Guidelines, the Administrator of the Environmental Protection Agency shall be allowed a period of 45 days for such review and the furnishing of written comments.

(g) Continue and expand its current efforts to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making which may have an impact on man's environment" in accordance with the precept in Section 102(2)(a) of the National Environmental Policy Act of 1969,

(h) Make all such proposals, excluding proposed land acquisition and legislative matters, available to the general public in the National Capital Region, together with the supporting environmental statement, prior to Commission action thereon. In accordance with Section 10 of the Council's Guidelines, the Commission will take no action subject to Section 102(2)(C) sooner than 90 days after a draft environmental statement has

been circulated for comment, furnished to the Council and made available to the public. In addition, the Commission will take no action subject to Section 102(2)(C) sooner than 30 days after the final text of an environmental statement has been made available to the Council and to the public. If the final text of an environmental statement is filed within ninety (90) days after a draft statement has been circulated for comment, furnished to the Council and made public pursuant to this section of these guidelines, the thirty (30) day period and ninety (90) day period may run concurrently to the extent that they overlap."

(i) Encourage and, where possible, assist Federal agencies in the National Capital Region to take the necessary actions for the abatement of air and water pollution completed or underway no later than December 31, 1972--in accordance with Section 5 of Executive Order 11507.

3. COMMISSION REVIEW OF PROPOSED "ACTIONS" BY DISTRICT AND FEDERAL AGENCIES PURSUANT TO SECTION 5 OF THE NATIONAL CAPITAL PLANNING ACT OF 1952, AS AMENDED

In order to expand the Commission's review of proposed District or Federal land acquisition and/or construction plans or programs in the National Capital Region so as to include a more intensive review of the environmental aspects and implications of all such proposals and an evaluation of the sponsoring agency's environmental statement, if any, on each such project and the Council on Environmental Quality's views, if any, on each such project, the Commission will:

(a) Request that all future submissions by Federal agencies to the Commission under Section 5 of the National Capital Planning Act of 1952, as amended, include a copy of the environmental statement if required pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and Executive Order 11514 of March 5, 1970. In

addition, submissions should also include a statement indicating the extent to which all such proposals are consistent with Executive Order 11507.

(b) Request that all future submissions by District agencies to the Commission under Section 5 of the National Capital Planning Act of 1952, as amended, that may significantly affect the environment in the National Capital Region also include a copy of an environmental statement similar to that required of Federal agencies pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and Executive Order 11514 of March 5, 1970

Although the declaration of a national environmental policy in Section 101 of the National Environmental Policy Act of 1969 would appear to include actions by the District of Columbia Government, the provisions of Sections 102 and 103, which are directed to all agencies of the Federal Government, do not apparently apply to actions of the District of Columbia Government unless Federal financial assistance is involved in individual District projects. The various activities of the various District agencies and departments do, in fact, affect the quality of the environment in both the District of Columbia and the National Capital Region as a whole and should, therefore, also meet the objectives and policies of the National Environmental Policy Act of 1969.

(c) Request that District and Federal agencies submitting an environmental statement also submit a "Summary Sheet" to accompany each such statement, as shown in Appendix 1.

(d) Consult with the appropriate agencies with "jurisdiction by law or special expertise" for comments with respect to various types of environmental impact of proposed actions--as identified in the July 29, 1970 memorandum of the Council on Environmental Quality or subsequent modifications thereto.

(e) Consult with, and secure advice and comment from, the environmental Protection Agency on proposed major actions significantly affecting air and water quality, solid waste disposal, pesticides, radiation standards, and noise in the National Capital Region, to which Section 102(2)(C) of Public Law 90-190 applies.

(f) Review and monitor the short-term and long-term cumulative environmental impacts of individual project proposals, a complex of projects or a master plan for an entire facility or installation within the National Capital Region.

(g) Give special attention to any proposed "action" that does not fully meet the objectives of the National Environmental Policy Act of 1969 and Executive Order 11514 and that portion of the environmental statement containing "a rigorous exploration and objective evaluation of alternative actions that might avoid some or all of the adverse environmental affects" As indicated in the Interim Guidelines of the Council on Environmental Quality, "sufficient analysis of such alternatives and their costs and impact on the environment should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might have less detrimental effects." Where a cost-benefit analysis of the proposed action has been prepared, this analysis should be attached to the environmental impact statement.

(h) Make a finding prior to any action upon such and/or project plans to insure that the proposal is consistent with the objectives and policies of Section 101 of the National Environmental Policy Act of 1969 and the Commission's Comprehensive Plan for the National Capital, and will either enhance or at least will not adversely affect the quality of the environment in the National Capital Region.

(i) Refer, where appropriate, a copy of the sponsoring agency's environmental statement as a part of the Commission's regional referral of District or Federal master plans, or major modifications thereto, in the National Capital Region to the appropriate planning agency having jurisdiction over the affected part of the environs--in accordance with Section 5(d) of the National Capital Planning Act of 1952, as amended.

(j) Refer, where appropriate, a copy of the sponsoring agency's environmental statement as a part of the Commission's referral of master plans, or major modifications thereto, for Federal and District facilities in the National Capital Region to the Metropolitan Washington Council of Governments--in accordance with the Commission's resolution of November 9, 1967.

(k) Refer, where appropriate, a copy of the sponsoring agency's environmental statement or description as a part of the Commission's referral of master plans, or major modifications thereto, for Federal and District facilities in the National Capital Region to the state clearinghouses in Maryland and Virginia in accordance with the Office of Management and Budget Circular No. A-95. This procedure is in accordance with Section 3(d) of the Council's Guidelines which provide that "it is imperative that existing mechanisms for obtaining the views of Federal, state, and local agencies on proposed Federal actions be utilized to the extent practical in dealing with environmental matters.

(1) The Commission believes that the District of Columbia Government and the Federal Government should make a special effort in the National Capital Region to implement the objectives of Executive Order 11507 by providing leadership in the design, operation, and maintenance of its facilities to protect and enhance the quality of our air and water resources.

(m) In its review of proposed legislation affecting the quality of the environment in the National Capital Region, the Commission will review and evaluate the draft legislation and the attached environmental statement, if any, provided by the originating Federal agency and will report thereon to either the Office of Management and Budget and/or the inquiring Congressional Committee.

(n) The Commission usually reviews proposed District and Federal developments in the following stages:

1. Fiscal year budget requests,
2. General location or site boundary proposals,
3. Preliminary and final site and building plans, and
4. Master plans for major installations within the National Capital Region

It is therefore appropriate and necessary to identify at what stage or stages in such a series of reviews the environmental statements required by the Act should be submitted.

In general, as provided in the Council's Interim Guidelines, the environmental statement should be available at the earliest feasible time in the development of a program and project proposal. Some environmental statements will be submitted as a part of the Commission review of Fiscal Year Budget Requests--in accordance with the directives of the Office of Management and Budget and Circular A-11. In other cases, they will be submitted in conjunction with an agency's land acquisition or site location proposal. In subsequent submissions of the same proposal at the preliminary site and building plan stage, copies of the environmental statement--with or without modifications--should also be submitted in order to establish whether any change or modification in the development program or the project proposal has also resulted in any modification to the environmental impact of the proposal.

Where it is possible to fully evaluate the full environmental impact of proposed preliminary plans, the Commission will consider making its environmental finding at that stage. In cases where preliminary plans are not complete enough to make this possible, the Commission will make its final environmental review and finding at the time of its review of final plans.

No environmental statement would be requested at the time of the submission of the final site and building plans for a particular project if the Commission had previously approved the preliminary site and building plans without any qualifications or recommended further study and had made a finding that the proposed development would enhance, or at least not adversely affect the quality of the environment in the National Capital Region; and there was no change in the proposed function, program or environmental impact of the proposal between the preliminary and final plans.

(o) In regard to the Commission's review functions, the Commission understands that Section 2(b) of Executive Order 11514 regarding "the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact" is the responsibility of the originating agency. The Commission therefore looks to sponsoring District and Federal agencies to make such proposals "--other than on budget and legislative matters--," together with the environmental statement, available to the public prior to their submittal to the Commission under Section 5 of the National Capital Planning Act of 1952, as amended.

"In any event, all environmental statements or descriptions submitted to the Commission as part of the submission of proposed developments under Section 5 of the National Capital Planning Act will be considered as public information, and made available for review upon request and, where appropriate, referred to the affected local, subregional and metropolitan planning agency or agencies."

SUMMARY SHEET*

(TO ACCOMPANY EACH SECTION 102 ENVIRONMENTAL
STATEMENT SUBMITTED TO THE NATIONAL
CAPITAL PLANNING COMMISSION)

1. Environmental Statement (Check one)

☐ Draft

☐ Final

2. Name of Responsible Agency (with name of operating division)

3. Name of Action (Check one)

☐ Administrative Action

☐ Construction Project

☐ Legislative Action

☐ Other

☐ Master Plan or Modification

4. Brief Description of Action Indicating Part, or Parts, of
National Capital Region Particularly Affected

5. Summary of Environmental Impact and Adverse Environmental Effects,
if Any

6. List of Alternatives Considered

*Please adjust spacing on form as needed and keep as brief as possible

Page 1 Requested (for Disposal) - This Copy

8. List of all Federal, State, and Local Agencies and Other Sources
From Which Written Comments Have Been Received (for Final Statements)

9. Dates Draft Statement and Final Statement Made Available for Council
on Environmental Quality and Public

NATIONAL CAPITAL REGION

WASHINGTON, D.C. 20576

RESOLUTION ADOPTING AMENDMENTS TO THE COMMISSION'S POLICIES
AND PROCEDURES FOR IMPLEMENTING THE GOALS AND POLICIES
OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 AND
EXECUTIVE ORDERS 11507 AND 11514 FOR THE
PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY
IN THE NATIONAL CAPITAL REGION

WHEREAS, the Commission has heretofore adopted policies and procedures for implementing the goals and policies of the National Environmental Policy Act of 1969 and Executive Orders 11507 and 11514 for the protection and enhancement of environmental quality in the National Capital Region; and

WHEREAS, the Commission desires to distinguish between a "major action" under Section 102(2)(c) of the National Environmental Policy Act of 1969, for which the filing of an environmental impact statement is required and an action which is not a "major action" within the meaning of the Act.

BE IT RESOLVED, that the policies and procedures are amended as follows:

1. In the first paragraph of Section 2 delete the words "is responsible for preparing environmental statements in" and insert in lieu thereof the words "will prepare either an environmental statement or a description of environmental impact in each of".
2. After the first paragraph of Section 2 insert the following new paragraph:

"The Executive Director shall determine with respect to each plan, plan modification, or other undertaking described in the first paragraph of this section whether such plan, plan modification, or other undertaking is a major action, pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, for which an environmental statement is required, and the Council on Environmental Quality's Guidelines for statements on major proposed actions affecting the environment."